



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Board of County Commissioners

Thursday, September 22, 2005

12:00 PM

Commission Chamber

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Commission Auditor

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**Miami-Dade County Board of County Commissioners
Office of the Commission Auditor**

Legislative Analysis

**Board of County Commissioners
Meeting Agenda**

Thursday, September 22, 2005

Written analyses for the below listed items are attached for your consideration in this Legislative Analysis.

Item Number(s)

4(D)	12(A)(1)
14(A)(1)	

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analyses prepared by:
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LEGISLATIVE ANALYSIS

ORDINANCE AMENDING THE COUNTY'S EXPEDITE PROGRAM FOR CAPITAL CONSTRUCTION, PROVIDING THAT THE PROGRAM SHALL BE REPEALED IN THE EVENT OF AN AMENDMENT TO THE COUNTY CHARTER MODIFYING THE RELATIVE POWERS, DUTIES OR OBLIGATIONS OF THE MAYOR, THE BOARD OF COUNTY COMMISSIONERS, OR THE MANAGER; REPEALING SUNSET PROVISIONS; AMENDING SECTION 2-8.2.7 OF THE CODE OF MIAMI-DADE COUNTY AND ORDINANCE NO. 05-155; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

County Manager

I. SUMMARY

Section 1 of this ordinance provides for an automatic repeal of the Capital Improvement Expedite Program if the voters approve any amendment to the County Charter which affects the powers of the Commission, the Mayor, or the Manager to award contracts.

Section 2 repeals the sunset provision of the Capital Improvement Expedite Program, currently scheduled to sunset in January 2006.

II. PRESENT SITUATION

The Expedite Ordinance provides authority for the Manager to advertise and award certain capital construction contracts under Safe Neighborhood Parks, Quality Neighborhood Initiative, Annual Proposed Capital Budget, Building Better Communities, Transportation Improvement Plan, and other programs.

III. POLICY CHANGE AND IMPLICATION

The repeal of the sunset provision for the Expedite Ordinance continues County policy of providing an expedited manner for the Manager to negotiate and award non-controversial capital improvement projects, with previous Commission approval, for certain projects.

The automatic repeal of the Expedite Ordinance prevents the Manager from utilizing the Expedite Ordinance if the power of approval of contracts is transferred from the Commission to the Mayor upon voter approval of a Charter amendment, such as the Strong Mayor Proposal.

IV. ECONOMIC IMPACT

The Manager's report states that a sunset of the Expedite Ordinance will cost \$1 million more in staff time and project costs.

V. COMMENTS AND QUESTIONS

Earlier this year, Citizens for Reform PAC sponsored a petition to amend the Charter to create an Executive Mayor for Miami-Dade County. Voter approval of the Strong Mayor Proposal will result in the transfer of executive power from the Commission to the Mayor. This Strong Mayor Proposal was struck off the ballot by Circuit Judge Genden on August 10th. Citizens for Reform has filed its notice of appeal.

A separate petition from Citizens for Reform PAC sought to amend Sec. 4.03D of the Charter, to transfer final approval of a procurement contract from the Commission to the responsible department director. That petition did not secure enough signatures by the 60 day deadline. Regardless of the failure of the procurement petition, the administration of competitive bidding might be considered an executive power, which would transfer to the Mayor under the Strong Mayor Proposal.

If the Strong Mayor Proposal is approved by the voters, the Commission still retains power to adopt ordinances and resolutions which place restrictions on the procurement process. However, the Commission might not retain the power to authorize a specific RFP, or to award a contract to a bidder of its own choosing (even by waiving competitive bidding). The Commission might retain only the Sec. 4.03D power to approve or reject the final contract award, as submitted by the Mayor.

LEGISLATIVE ANALYSIS

RESOLUTION APPROVING A SETTLEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF CORAL GABLES FOR DELAYS IN COMPLETING SEWER LINE CONSTRUCTION

County Manager

SUMMARY

This resolution authorizes the execution of a Settlement Agreement between Miami-Dade County and the City of Coral Gables. The settlement amount of \$484,813.69 will compensate the City of Coral Gables for unforeseen delays in the completion of a new sewer line.

PRESENT SITUATION

- On February 2, 2000, the County (WASD) and the City of Coral Gables entered into a contract for sale and purchase of building and property located at 4200 Salzedo Street (1.345 acres). The agreement required the County to complete the installation of a new sewage line on or before **June 30, 2003**, allowing the opportunity to divert certain sewage away from the City's sewage system.
- The disconnection from the Coral Gables sewer line was completed on **May 20, 2004**.
- WASD encountered difficulties in meeting the deadline set forth in the agreement due to difficulties associated with the construction process. Staff reports that the unforeseen delays encountered by the WASD were a result of:
 - Permit requirements
 - Unforeseen underground utilities
 - Unsuitable soil conditions

POLICY CHANGE AND IMPLICATION

- The provisions of the original contract (see Resolution No. R-1304-99) state:

The parties agree to extend the Service Contract with the same terms and conditions until December 31, 2003. If SELLER fails to complete a new sewer line to divert the sewage flow from the BUYER's system by December 31, 2003, the SELLER shall pay to BUYER the amount of twenty-three cents (.23) per thousand gallons for all sewage from the SELLER which flows through the BUYER's system beginning January 1, 2004.

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- The County will pay the City of Coral Gables the amount of \$484,813.69.
- Upon receipt of said payment, the City shall execute in favor of the County a full satisfaction and release with respect to all obligations and/or set forth in the Contract for Sale and Purchase.

ECONOMIC IMPACT

- County's settlement payment to the City of Coral Gables for \$484,813.69.

COMMENTS AND QUESTIONS

- An explanation for the unforeseen delays was provided above by the County Manager's Office.
- However, additional questions (shown below) regarding the specific reasons for the delays and the actual settlement agreement were asked. The answers were pending at the time of print.
- Questions regarding the specific reasons for the unforeseen delays:
 - Who were the permitting agencies?
 - Specifically, what were the difficulties encountered in the permitting process?
 - What were the issues regarding the underground utilities?
 - Who owned the utilities?
 - What were the specific unsuitable soil conditions?
- Questions regarding the actual settlement agreement:
 - How many gallons of County sewage does the City of Coral Gables believe flowed through the city's system during the relevant period of time? What is the County's estimate?
 - Are there discrepancies between the extension payment calculation (per 1,000 gallons used) we are using versus the City of Coral Gables.
 - Ultimately, how was the settlement amount of \$484,813.69 computed?

LEGISLATIVE ANALYSIS

RESOLUTION RELATING TO NORTH TERMINAL DEVELOPMENT PROGRAM AT MIAMI INTERNATIONAL AIRPORT, APPROVING MDAD AMENDMENT NO. 1 TO THE DESIGN SERVICES AGREEMENT WITH BERMELLO AJAMIL & PARTNERS, INC. FOR SUPPLEMENTAL ARCHITECTURAL / ENGINEERING SERVICES, PROJECT NO. MIA-746; APPROVING MDAD AMENDMENT NO. 1 TO THE DESIGN SERVICES AGREEMENT WITH LEO A. DALY COMPANY FOR SUPPLEMENTAL ARCHITECTURAL / ENGINEERING SERVICES, PROJECT NO. MIA-747; AND APPROVING MDAD AMENDMENT NO. 1 TO THE DESIGN SERVICES AGREEMENT WITH WOLFBERG ALVAREZ, FOR SUPPLEMENTAL ARCHITECTURAL / ENGINEERING SERVICES, PROJECT NO. MIA-739C; AUTHORIZING COUNTY MANAGER OR DESIGNEE TO EXECUTE SAME AND TO EXERCISE CANCELLATION AND TERMINATION PROVISIONS THEREOF; AND WAIVING THE REQUIREMENTS OF RESOLUTION NO. R-377-04

(Aviation Department)

I. SUMMARY

This resolution approves the first amendment, adding scope and Additional Services allowances, to the Design Services Agreements with Bermello Ajamil & Partners, Inc., Leo A. Daly Company, and Wolfberg Alvarez (projects # MIA-746-R-3, MIA-747-R-1, and MIA-739C respectively). This resolution waives the requirements of Resolution R-377-04 related to the effective date of the amended agreement.

II. PRESENT SITUATION

On June 21, 2005, the Board approved the Fourth Amendment to the Lease, Construction and Financing Agreement (LCF) between American Airlines and Miami-Dade County transferring responsibility of completing the North Terminal Development (NTD) to the County. As a result, these agreements were assigned to the County. Prior to the assignment of these agreements to the County, American had the ability to issue change orders to deal with contingencies. Each project's budget contains a contingency amount that can not be by the County accessed under the existing contractual mechanism. The budgets for each project were previously approved by the Board.

III. POLICY CHANGE AND IMPLICATION

This resolution provides the necessary mechanism to access the money for contingencies of each project involved to fund the added scope and Additional Services allowances.

BCC ITEM 14(A)(1)**September 22, 2005****IV. ECONOMIC IMPACT**

The amendment to each of the agreements involved does not increase either the NTD's budget or the budgets of any of the projects.

V. COMMENTS AND QUESTIONS

- ◆ The added scope and additional services allowance do not change the NTD budget or the budget for any individual project. Funding comes from the contingency portion of each project's budget.

Firm	Amount of recommended modifications	Total of current project contingencies ¹
Bermello Ajamil & Partners	\$1,416,100	\$4,149,964
Wolfberg Alvarez	\$849,944	\$3,308,365
Leo A. Daly Company	\$1,247,305	\$2,181,654

- ◆ As shown above, the amount of recommended modification per project is below the total current project contingency amounts allowing additional funding if additional contract increases are needed.
- ◆ Any amounts above the available current project contingency require approval by the Board.
- ◆ Over \$70 million are currently allocated for contingencies related to the North Terminal Development.

¹ Source: Miami-Dade Aviation Department